

11. (original) A nonaqueous electrolyte battery according to claim 1, wherein said battery is a secondary battery.

REMARKS

Claims 1, 4-6, and 8-11 are pending in the application. In the final Office Action of June 7, 2007, the Examiner made the following disposition:

- A.) Rejected claims 1, 4-6 and 8-11 under 35 U.S.C. 112, second paragraph.
- B.) Rejected claims 1, 4-6 and 8-11 under 35 U.S.C. 112, first paragraph.
- C.) Rejected claims 1, 5, 6, and 8-11 under 35 U.S.C. §103(a) as being unpatentable over *Nakane et al.* (EP 0895296) in view of *Gozdz et al.*
- D.) Rejected claim 4 under 35 U.S.C. §103(a) as being unpatentable over *Nakane et al.* in view of *Gozdz et al.* and further in view of *Wedlake*.

Applicants respectfully traverse the rejections and address the Examiner's disposition below. Claims 1 and 5 have been amended. Claim 6 has been canceled.

- A.) Rejected claims 1, 4-6 and 8-11 under 35 U.S.C. 112, second paragraph.

Applicants respectfully disagree with the rejection. However, to expedite prosecution, claim 1 has been amended to clarify the claim language and overcome the objection.

As explained in the Amendment "N" filed on March 27, 2007, Applicants' claimed first and second gas absorbable members are not part of the claimed outer covering member. Referring to Figure 1 as an illustrate example, a first gas absorbable member 5 and a second gas absorbable member 6 are positioned between the battery element 1 and the outer covering member 2. This is clearly recited in claim 1. Also, as clearly recited in claim 1, the outer covering member 2 includes a gas absorbable material and a resin material. The first gas absorbable member 5 and second gas absorbable member 6 are explicitly recited as different elements than the gas absorbable material that is part of the outer covering member 2.

The Examiner has again attempted to interpret the first and second gas absorbable members as being layers of the outer covering member. *Office Action of 6/7/2007, page 2.* However, claim 1 was previously amended to clearly recite that the first and second gas absorbable members are not "a part of the laminated film nor the gas absorbable material and resin material." (See illustrative first gas absorbable member 5 and second gas absorbable member 6 in Figure 1). Further, claim 1 clearly recites that the first gas absorbable member and second gas absorbable member are different elements than the gas absorbable material, which is instead part of the outer covering member.

Claims 4, 5, and 8-11 depend directly or indirectly from claim 1 and are therefore allowable for at least the same reasons that claim 1 is allowable.

Claim 6 has been canceled.

Applicants respectfully submit the rejection has been overcome and request that it be withdrawn.

B.) Rejected claims 1, 4-6 and 8-11 under 35 U.S.C. 112, first paragraph.

Claim 1 has been amended as per the Examiner's request to overcome the rejection.

As discussed above, claim 1 clearly recites that the first gas absorbable member and second gas absorbable member are different elements than the gas absorbable material, which is instead part of the outer covering member.

Applicants respectfully submit the rejection has been overcome and request that it be withdrawn.

C.) Rejected claims 1, 5, 6, and 8-11 under 35 U.S.C. §103(a) as being unpatentable over Nakane et al. (EP 0895296) in view of Gozdz et al.

Applicants respectfully disagree with the rejection.

Referring to Applicants' Figure 1 as an illustrative example, claim 1, as amended, claims an outer covering member 2 including a laminated film having a gas absorbable material and resin material interposed between an outermost layer of said outer covering member 2 and a battery element 1. The outer covering member 2 has a first outer covering member and a second outer covering member, the first outer covering member and the second outer covering member being a single common piece of material. The first outer covering member has a recessed portion accommodating the battery element 1. The second outer covering member extending from one side of the first outer covering member and folded onto the first outer covering member covering the battery element and the recessed portion.

The battery element 1 is contained in the outer covering member and heat sealed therein. The battery element has a first end at which first wound edges are located and a second end, which is opposite the first end, at which second wound edges are located.

A first gas absorbable member 5 is positioned at the first end of the battery element adjacent the first wound edges of the battery element and positioned between the battery element and the outer covering member. A second gas absorbable member 6 is positioned at the second end of the battery element adjacent the second wound edges of the battery element and positioned

between the battery element and the outer covering member. The first and second gas absorbable members are not part of the laminated film nor the gas absorbable material and resin material. The first and second gas absorbable members are each continuous solid members.

This is clearly unlike *Nakane* in view of *Gozdz*, which fails to disclose or suggest Applicants' claimed first and second gas absorbable members positioned between an outer covering member and a battery element. The Examiner argues that *Nakane*'s inorganic oxide fine powder teaches or suggest Applicants' claimed first and second gas absorbable members. Applicants disagree. Applicants' claimed first and second gas absorbable members are each continuous solid members that are positioned between a battery element and an outer covering member. This is unlike *Nakane*, which teaches a fine powder that is added to various elements, such as an electrolyte, or positioned in a gap beneath a covering. *Nakane* [0031]. Thus, *Nakane*'s fine powder fails to teach or suggest Applicants' claimed first and second gas absorbable members.

Gozdz also fail to disclose or suggest Applicants' claimed first and second gas absorbable members that are located between a battery element and an outer covering member. For at least this reason, the cited references fail to disclose or suggest claim 1.

Claims 5 and 8-11 depend directly or indirectly from claim 1 and are therefore allowable for at least the same reasons that claim 1 is allowable.

Claim 6 has been canceled.

Applicants respectfully submit the rejection has been overcome and request that it be withdrawn.

D.) Rejected claim 4 under 35 U.S.C. §103(a) as being unpatentable over *Nakane et al.* in view of *Gozdz et al.* and further in view of *Wedlake*.

Applicants respectfully disagree with the rejection.

Applicants' independent claim 1 is allowable over *Nakane* in view of *Gozdz* as discussed above. *Wedlake* still fails to disclose or suggest Applicants' claimed first and second gas absorbable members. Therefore, *Nakane* in view of *Gozdz* and further in view of *Wedlake* still fails to disclose or suggest claim 1.

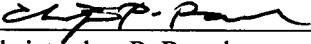
Claim 4 depends directly or indirectly from claim 1 and is therefore allowable for at least the same reasons that claim 1 is allowable.

Applicants respectfully submit the rejection has been overcome and request that it be withdrawn.

CONCLUSION

In view of the foregoing, it is submitted that claims 1, 4, 5, and 8-11 are patentable. It is therefore submitted that the application is in condition for allowance. Notice to that effect is respectfully requested.

Respectfully submitted,

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